

# MAINTENANCE AGREEMENT

## BETWEEN THE UNDERSIGNED

### IAI industrial systems B.V.,

a private company with limited liability organised under the laws of the Netherlands, having its corporate seat at Veldhoven and its office address at (5504 DE) De Run 5406, Veldhoven, the Netherlands, duly represented by its Managing Director René Hubertus Emile Strijbos, hereafter referred to as "IAI";

## AND

\_\_\_\_\_,  
a company organised under the laws of \_\_\_\_\_,  
having its corporate seat at \_\_\_\_\_,  
and its office address at \_\_\_\_\_,  
duly represented by its \_\_\_\_\_,  
hereafter referred to as "Client";

Each hereinafter individually referred to as a "Party" and together as the "Parties";

## 1. WHEREAS

- IAI has sold and delivered or will deliver equipment (as defined in clause 2 hereof) to the Client;
- The client wishes the support of IAI for the maintenance of the Equipment;
- IAI is willing to render maintenance to the Equipment;
- Client and IAI agree that maintenance to the equipment will be carried out by IAI on the terms and conditions as set forth in this maintenance agreement;

## 2. DEFINITIONS

In this maintenance agreement the following terms shall have the meaning hereinafter assigned to them. Words in the singular shall include the plural and vice versa where the context so requires.

**"Agreement"** shall mean this maintenance agreement between the Parties concerning maintenance to the

Equipment to be performed by IAI, including the recitals and all appendices attached hereto, as well as any subsequent amendments hereof and/or addenda hereto as the Parties may hereafter agree upon in writing.

**"Corrective Maintenance"** shall mean the maintenance undertaken by IAI to remedy functional defects, which have arisen in the Equipment, upon receipt of a Notice of Defect sent by the Client.

Corrective Maintenance shall include:

- fault tracing,
- activities to remedy the defect.

Corrective Maintenance shall be commenced on Working Days within 24 (twenty four) hours upon the receipt of the Notice of Defect sent by the Client to IAI. In case the Notice of Defect is not received on a Working Day, it is assumed that the Notice of Defect was received on the next Working Day.

Unless the defect is obvious from the Notice of Defect, fault tracing will always be the first action which will be performed in a co-operation between IAI service engineers and the Client's technical personnel by phone, modem or otherwise. If possible the defect will (temporarily) be resolved by the Client's trained technical personnel guided and supported by IAI service engineers.

If necessary an IAI service engineer will be dispatched to the Site as soon as possible but anyway within the Maximum Corrective Maintenance Delay.

**"Maximum Corrective Maintenance Delay"** shall mean the maximum delay, expressed in Working Days, passing from the moment that it becomes obvious that an IAI service engineer must be dispatched to remedy the defect on Site until his actual departure.

The Maximum Corrective Maintenance Delay is agreed between the Parties and noted in Appendix 1 of this Agreement.

If regulations of authorities, such as visa and/or customs regulations, make it impossible for IAI to dispatch a service engineer within the agreed Maximum Corrective Maintenance Delay, the definition of the Maximum Corrective Maintenance Delay shall be: the time needed for IAI, doing its best efforts, to comply with regulations of authorities and obtain the documents and authorization necessary to perform

Corrective Maintenance on Site.

**"Equipment"** shall mean the specific equipment, (to be) delivered by IAI, which is subject to maintenance under this Agreement and listed in Appendix 1 hereof. **"In Writing"** shall mean by document (including e-mail) signed by one (1) or both of the Parties.

**"General Conditions"** shall mean IAI's General Conditions of Sale for Goods and Services attached hereto as Appendix 3.

**"Initial Contract Period"** shall mean the period this Agreement is concluded for initially. Unless otherwise specified in Appendix 1 hereof, the Initial Contract Period is one (1) year.

**"Notice of Defect"** shall mean a notice In Writing to be sent by the Client without undue delay notifying IAI of a defect which appears in the Equipment, the work performed or in the parts provided by IAI and requesting IAI to render Corrective Maintenance.

The Notice of Defect should at least provide the information requested for in Appendix 2 hereof.

**"Preventive Maintenance"** shall mean the maintenance carried out at regular intervals, the Preventive Maintenance Intervals, aiming at operation of the Equipment free from malfunctions for at the least the next Preventive Maintenance Interval. Preventive Maintenance shall include the following with respect to the Equipment:

- checking the condition;
- functional check;
- adjustments and alignments, if necessary;
- cleaning and necessary lubrication; and
- advising the Client about foreseeable maintenance actions, if applicable.

For as far as they can be performed within the Preventive Maintenance Duration the following other activities may be performed:

- Corrective Maintenance;
- the introduction of modifications to finally resolve a defect that has been solved provisionally before,
- the introduction of modifications to improve the reliability of the Equipment,
- replacement of Wearing Parts,
- additional training or advising of the Client's personnel.

**"Preventive Maintenance Interval"** shall mean the interval between two (2) successive Preventive Maintenance actions carried out by IAI and specified in

Appendix 1 hereof. The Preventive Maintenance Interval is typical for the Equipment when operated up to 10 (ten) hours per day.

**"Preventive Maintenance Duration"** shall mean the duration of the Preventive Maintenance carried out by one IAI engineer on Site and specified in Appendix 1 hereof. The Preventive Maintenance Duration is typical for the Equipment assuming the Client takes proper care of the Equipment as instructed in the Equipment's user's manual.

**"Site"** shall mean Client's site where the Equipment is installed.

**"Spare Parts"** shall mean extra parts, identical to or functional replacements for parts in the Equipment.

**"Spare Parts Set"** shall mean the set of Spare Parts as advised by IAI that should be kept by the Client on Site as replacement to facilitate swift Corrective Maintenance in case of breakdown of the Equipment.

**"Wearing Parts"** shall mean those parts of the Equipment, which show wear and tear and thus need to be inspected if not replaced at regular intervals.

**"Wearing Parts Set"** shall mean the set of Wearing Parts as advised by IAI that should be kept on Site by the Client as replacement to facilitate swift replacement if required.

**"Working Days"** are Monday through Friday except for Dutch national holidays.

**"Working Hours"** are from 08.00 to 18.00 local time.

### **3. SCOPE OF THE MAINTENANCE**

IAI undertakes to:

- perform Preventive Maintenance at Preventive Maintenance Intervals within the Preventive Maintenance Duration; and
- perform Corrective Maintenance by remote support or by dispatching an IAI service engineer to the Client's Site, the foregoing shall apply to the extent specified in the Agreement and its Appendix 1 and 2, of which Appendix 1 may contain Client specific clauses that prevail over similar clauses in the remainder of the Agreement.

### **4. IAI's MAINTENANCE REPORT**

IAI shall make a report In Writing containing its observations and the measures taken. IAI shall provide a copy of the report to the Client each time IAI has performed maintenance work. The report shall be

drawn up afterwards and sent to the Client. The report will be in English.

#### **5. ORIGINAL PARTS**

IAI and the Client shall only use parts of the original brand or parts of equivalent quality and fitness for use when carrying out maintenance and daily care of the Equipment.

#### **6. CLIENT'S DAILY CARE**

The Client shall be responsible for the necessary daily care of the Equipment as described in the Equipment's user's manual.

#### **7. IAI'S EXCLUSIVE RIGHT**

The Client shall not, except as specified in Clauses 14 and 23 hereof, without IAI's consent In Writing, himself carry out or have others carry out maintenance to the Equipment.

#### **8. ALTERATIONS TO THE EQUIPMENT**

The Client shall not, except as specified in Clauses 14 and 23 hereof, without IAI's consent In Writing, himself carry out or have others carry out modifications to the Equipment.

In the event of any modifications pursuant to Clauses 14 and 23 hereof, the Client shall without undue delay inform IAI by notice In Writing of any such modifications. If, at IAI's sole discretion, such modifications seriously may affect the performance and/or the safety of the Equipment, IAI may, with immediate effect, terminate the Agreement by notice In Writing to the Client.

#### **9. WORKING CONDITIONS**

The Client shall ensure that the maintenance is not carried out under dangerous or unhealthy conditions and shall take all necessary measures to protect IAI's personnel from exposure to any safety or health hazard. The Client shall ensure that IAI's personnel are informed of any safety regulations in force at the place where the maintenance is carried out on Site.

IAI shall inform the Client of any special hazards that the maintenance to the Equipment may entail.

#### **10. TECHNICAL DOCUMENTATION**

The Client shall provide the technical documentation (e.g. up-to-date drawings, descriptions, charts and instructions) in his possession, which is necessary for IAI carrying out the agreed maintenance under this Agreement. IAI may not use such documentation for any purpose other than to fulfil its obligations under this Agreement.

#### **11. NOTICE OF PREVENTIVE MAINTENANCE**

IAI shall notify the Client at least one (1) month in advance of the time when the Preventive Maintenance will be carried out.

The Client shall immediately confirm the proposed time In Writing or notify IAI if he cannot let IAI carry out the Preventive Maintenance at the notified time in which case another date has to be agreed on between the Parties.

#### **12. CO-ORDINATION OF PREVENTIVE AND CORRECTIVE MAINTENANCE**

If Corrective Maintenance is carried out shortly before Preventive Maintenance is due, IAI may, with the Client's consent In Writing, thereby also carry out the Preventive Maintenance.

For such coordinated maintenance IAI may not charge the Client for any costs which are already covered by the agreed fee or costs for Preventive Maintenance.

#### **13. IAI'S ACCESS TO THE EQUIPMENT, WORKING HOURS, CLIENT'S ASSISTANCE**

The Client shall ensure that IAI has access to the Equipment at the agreed or notified time for maintenance.

Unless otherwise agreed, the maintenance shall not be carried out outside Working Hours.

During the execution of the maintenance the Client will render assistance and supply material for testing if so requested by IAI personnel at no cost.

#### **14. IAI'S DELAY**

If IAI fails to carry out the maintenance at the agreed or notified time and such delay is not due to the Client, the following shall apply:

- In case of delayed Preventive Maintenance the Client shall fix a reasonable final period within which IAI shall have to carry out the Preventive Maintenance and inform IAI In Writing thereof. If

IAI fails to do so, the Client may carry out the Preventive Maintenance himself or employ suitable others to do so at his own costs,

- In case of delayed Corrective Maintenance the Client may, having notified IAI In Writing thereof, carry out the Corrective Maintenance himself or employ suitable others to do so at his own costs.

In such event IAI shall, regardless of the cause of the delay, repay the amount it may have received for the maintenance in question. Except as specified in this Clause the Client shall not be entitled to any compensation for IAI's delay.

#### **15. FEE FOR MAINTENANCE**

The yearly fee for maintenance includes a fee for Preventive Maintenance and a fee for Corrective Maintenance.

The yearly fee for maintenance is stated in Appendix 1 hereof and may only be adjusted as laid down in Clause 24 of the General Conditions.

#### **16. FEE FOR PREVENTIVE MAINTENANCE**

The fee for Preventive Maintenance includes:

- all the work carried out by IAI at the Site, as far as this work does not exceed the Preventive Maintenance Duration; and
- time for travel, preparation of the visit and reporting on the findings during the visit.

Not included in, and to be paid by the Client in addition to, the fee are the costs of:

- travel, board and lodging; and
- visa and customs documents.

#### **17. FEE FOR CORRECTIVE MAINTENANCE**

The fee for Corrective Maintenance covers:

- IAI's costs to instruct and maintain qualified maintenance personnel equipped with tools and measurement devices in order to be able to perform the Corrective Maintenance; and
- remote support and advise by telephone or otherwise up to 40 (forty) hours per year to the Client in case of alleged malfunctions in order to diagnose the cause of the defect or any other questions that might come up during the use of the Equipment.

Not covered by, and to be paid by the Client in addition to, the fee are the costs of:

- remote support and advise beyond the above-mentioned 40 (forty) hours which will be charged on a time basis;
- travelling, working and reporting hours which will be charged on a time basis;
- travel, board and lodging;
- Spare Parts supplied by IAI; and
- visa and customs documents.

#### **18. WAITING, WORKING HOURS**

If IAI's personnel are required to wait with maintenance to the Equipment due to circumstances for which the Client is responsible, these waiting hours are considered to be hours of work.

If the Client requests IAI's personnel to work outside Working Hours and IAI can meet this request of the Client, following extra charges on the agreed hourly rate apply:

- 50 % (fifty per cent) for the hours of work in overtime on Working Days;
- 100 % (hundred per cent) for hours of work working on Saturday; and
- 200 % (two hundred per cent) for hours of work on Sunday or Dutch national holidays.

If IAI personnel takes the initiative to work outside Working Hours and the Client approves, no extra charges will be invoiced to the Client.

In no case IAI personnel will work more than 12 (twelve) hours per day.

#### **19. PAYMENT FOR MAINTENANCE**

The yearly fee for maintenance will be invoiced in two (2) installments of each 50 % (fifty per cent) of the agreed fee. The first invoice will be sent at the beginning of the maintenance period, the second (2<sup>nd</sup>) invoice follows six (6) months later.

All costs, not included in the yearly maintenance fee, will be invoiced separately, without allowance, after each Preventive or Corrective Maintenance action or visit by means of an itemized invoice related to the specific action. For this purpose hourly rates are specified in Appendix 1 hereof and may only be adjusted as laid down in Clause 24 of the General Conditions.

All agreed fees will be exclusive of any taxes or dues levied on the invoice in the Client's country.

## **20. PRICE ESTIMATE**

In case of Corrective Maintenance IAI shall, only at the Client's request, provide a price estimate after fault tracing but before undertaking any other work. The estimate shall not be binding, but IAI shall inform the Client if it becomes apparent that the final price will exceed the estimate by more than 20 % (twenty per cent). If the Client, after receiving the price estimate or such last mentioned notice, chooses not to proceed, he shall nevertheless pay IAI for the work already performed.

## **21. PAYMENT, LATE PAYMENT**

Fees and costs for maintenance shall be paid against invoice no later than 30 (thirty) days after the date of the invoice.

If the Client fails to pay by the due date, IAI may, after having notified the Client thereof In Writing, suspend its performance under the Agreement until payment is received.

## **22. LIABILITY FOR DEFECTS**

If IAI has failed to correctly perform the maintenance specified in the Agreement, or if there is a defect in a part (Spare Part and/or Wearing Part) which IAI has provided under the Agreement, IAI shall, after receipt of a Notice of Defect or after IAI itself discovered the defect, without delay at its own cost remedy the defect.

## **23. LIMITATION OF LIABILITY**

The liability for defects as described in clause 22 hereof expires one (1) month after the performance of the respective maintenance work and/or the receipt of the respective Spare Part and/or Wearing Part.

IAI's liability for defects does not cover defects or damage due to circumstances for which IAI is not responsible, such as:

- incorrect use of the Equipment,
- incorrect daily care by the Client (Clause 6 hereof),
- faulty maintenance by the Client or others appointed by the Client pursuant to Clause 14 hereof,
- incorrect measures (Clause 23 hereof); and
- normal wear and tear.

If defects in IAI's maintenance work or Equipment and/or Spare Parts provided by IAI might cause damage

to the Client's property, the Client shall take immediate measures necessary to prevent or mitigate such damage.

IAI shall only be liable for damage to the Client's property caused by IAI's negligence in connection with the maintenance work under the Agreement. IAI's liability shall for each occurrence be limited to € 50.000,- (fifty thousand euro) or the corresponding amount in the currency of the Client's country.

IAI shall have no liability for defective maintenance work, defective Equipment and/or Spare Parts provided under this Agreement or otherwise for its negligence except as stated in Clauses 22 and 23 of this Agreement. IAI shall not be obliged to make good or pay compensation for damage sustained by the Client owing to a defect or disturbance, as the case may be, if the defect or disturbance arises from or is related to the Equipment and/or Spare Part or Wearing Part being installed by a third party or by the Client itself.

IAI shall never be liable for indirect damage, including consequential damage, punitive or special damage, or loss of profit, lost savings and damage due to business stagnation.

The limitations of liability under this Clause shall not apply in case of damage resulting from wilful misconduct, gross fault or gross negligence on the part of IAI.

## **24. CONTRACT PERIOD, NOTICE OF NEW FEE**

This Agreement is concluded for the Initial Contract Period and shall be prolonged by one (1) year at a time, unless terminated by either Party by notice In Writing at least three (3) months before the expiry of the current contract period.

All agreed fees can be adjusted as follows. Unless the agreed fee is adjusted according to Clause 24 of the General Conditions, IAI may demand an increase of the agreed fee, provided that it informs the Client In Writing of the fee it requires for the coming contract period at least three (3) months before the expiry of the current contract period.

## **25. TERMINATION**

Each Party may terminate the Agreement with immediate effect if the other Party commits a material breach of this Agreement and fails to remedy such breach within 30 (thirty) days after notice In Writing of

the breach has been sent. Termination shall be made by notice In Writing.

## **26. COMMUNICATION**

The Parties shall only use communications In Writing between each other in respect of this Agreement. The sender shall specify whether a subject is of vital interest. The following addresses shall apply until the relevant Party gives notice of a change of address In Writing:

### **For IAI:**

Service aspects:

Attn. Stan van de Mortel, Tema Leader Service

E- mail: [stan.vandemortel@iai.nl](mailto:stan.vandemortel@iai.nl)

Commercial aspects:

Attn. Yamir Garcia, Bid Manager

E- mail: [yamir.garciaaguiar@iai.nl](mailto:yamir.garciaaguiar@iai.nl)

De Run 5406

5504 DE Veldhoven The Netherlands

### **For the Client:**

Attn. \_\_\_\_\_

Address \_\_\_\_\_

E-mail: \_\_\_\_\_

## **27. MISCELLANEOUS**

This Agreement sets out the entire understanding between the Parties with respect to the subject matter hereof and supersedes all prior oral and written arrangements and understandings between the Parties relating hereto.

The headings in this Agreement are for ease of reference only and shall not affect the meaning or interpretation of this Agreement or any clause hereof. If any provision of this Agreement were to prove unenforceable by virtue of it being contrary to any mandatory rule of law, the validity of the remaining provisions of this Agreement will in no way be affected. The Parties shall, in that case, be bound to perform as intended by the provision(s) thus affected as closely as possible, without infringing any mandatory rules of law effectively applicable.

Amendments of and addenda to this Agreement shall only be valid if in writing and signed by a duly authorized officer of both Parties.

This Agreement and none of its provisions shall be deemed to have been waived by any act or acceptance by either Party except by an instrument in writing signed by the duly authorised officers of both Parties.

This Agreement shall be considered for all purposes as prepared through the joint efforts of the Parties and shall not be construed against one Party to the other as a result of the manner in which this Agreement was negotiated, prepared, drafted or executed. The provisions which by their context clearly are intended to remain in force after the termination of this Agreement will remain in full force and effect.

## **28. DISPUTES, APPLICABLE LAWS**

In case of any disputes arising out of or relating to this Agreement, the Parties shall endeavour to settle such disputes amicably. If the Parties are unable to, the dispute shall exclusively be submitted to the jurisdiction of the competent courts of Oost-Brabant, The Netherlands.

The Agreement shall be governed by the substantive law of the Netherlands. The applicability of the 1980 Vienna Sales Convention and the United Nations Convention on Contracts for the International Sale of Goods is hereby excluded.

## **29. GENERAL CONDITIONS**

This Agreement shall be governed by IAI's General Conditions of Sale for Goods and Services attached hereto as Appendix 3.

In case of any contradiction between these General Conditions of Sale for Goods and Services and this Agreement, the latter shall prevail.

**IN WITNESS HEREOF, THE PARTIES HAVE AGREED UPON AND SIGNED THIS AGREEMENT IN TWO (2) ORIGINALS;**

On behalf of **IAI industrial systems B.V.**

Date:

Place: Veldhoven

Name: René Hubertus Emile Strijbos

Position: Managing Director

Signature:

On behalf of

Date:

Place:

Name:

Position:

Signature:

**Appendixes:**

- Appendix 1: Client specific information and articles pertaining to the Maintenance Agreement
- Appendix 2: Notice of Defect
- Appendix 3: General Conditions of Sale for Goods and Services

**Appendix 1: Client specific information and articles pertaining to the Maintenance Agreement**

Equipment:

Type of System	Serial number	PMD per System (hours)	PMI (months)

PMD = Preventive Maintenance Duration  
PMI = Preventive Maintenance Interval

Initial Contract Period: one (1) year

Start date of the Contract: \_\_\_\_\_

Maximum Corrective Maintenance Delay: three (3) days

Yearly fee for maintenance: Euro \_\_\_\_\_(price level 2024)

Hourly rates for: travelling hours Euro 103,-- (price level 2024)  
working hours Euro 133,-- (price level 2024)

Amendments to the Agreement: None.



## **Appendix 2: Notice of Defect**

The Notice of Defect should be addressed to:

IAI industrial systems B.V.  
Service Department  
Tel: + 31 40 2185000  
e-mail: service@iai.nl

The Notice of Defect should contain following information:

- machine number
- detailed problem description
- name
- date
- signature
- person to be contacted
- how to contact

**Appendix 3:      General Conditions of Sale for Goods and Services**